

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CODI LYN DEMAIO,

Defendant.

No. 22-CR-1039 CJW-MAR

**ORDER REGARDING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION
CONCERNING DEFENDANT'S
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On February 23, 2023, a one-count Superseding Indictment was filed against defendant and one other person. On July 6, 2023, defendant appeared before United States Magistrate Judge Mark A. Roberts and entered a plea of guilty to count one of the Superseding Indictment. On July 7, 2023, Judge Roberts filed a Report and Recommendation (“R&R”) in which he recommended defendant’s guilty plea be accepted and also ordered defendant detained pending sentencing. On July 21, 2023, defendant filed a Motion for Revocation of Order of Detention, and linked the motion to the Report and Recommendation as an appeal of the R&R. After review of defendant’s motion for revocation of detention, the Court concludes defendant is not objecting to or appealing Judge Roberts’ recommendation that the Court accept defendant’s guilty plea, just the portion where defendant was ordered detained. The Court, therefore, undertakes the necessary review of Judge Roberts’ recommendation to accept defendant’s guilty plea in this case. The Court will address defendant’s motion for revocation of detention in a separate order.

II. ANALYSIS

Under the statute, this Court's standard of review for a magistrate judge's R&R is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1)(C).

When parties do not object to a magistrate judge's report and recommendation, the Court reviews the report and recommendation for clear error. 28 U.S.C. § 636(b)(1)(A). Similarly, Federal Rule of Criminal Procedure 59(b) provides for review of a magistrate judge's R&R on dispositive motions, where objections are made, as follows:

The district judge must consider de novo any objection to the magistrate judge's recommendation. The district judge may accept, reject, or modify the recommendation, receive further evidence, or resubmit the matter to the magistrate judge with instructions.

FED. R. CRIM. P. 59(b)(3).¹

In this case, the parties filed no objections to the recommendation the Court accepted defendant's guilty plea, and it appears to the Court upon review that Judge Roberts' findings and conclusions regarding the guilty plea are not clearly erroneous.

¹ *United States v. Cortez-Hernandez*, 673 F. App'x 587, 590-91 (8th Cir. 2016) (per curiam), suggests that a defendant may have the right to de novo review of a magistrate judge's recommendation to accept a plea of guilty even if no objection is filed.

Therefore, the Court **ACCEPTS-IN-PART** Judge Roberts' R&R of July 7, 2023, **ACCEPTING** defendant's plea of guilty in this case to count one of the Superseding Indictment. An order on defendant's Motion for Revocation of Order of Detention will be filed separately.

IT IS SO ORDERED this 24th day of July, 2023.



C.J. Williams
United States District Judge
Northern District of Iowa